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District of Hawaii

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UNITED STATES OF AMERICA

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

NOV 20 2002
at 11 o'clock and 57 min. M.
WALTER A. Y. H. CHIN, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

| | | |
|---------------------------|--------|-------------------------------|
| UNITED STATES OF AMERICA, |) | CR. NO. 01-00160 SOM |
| |) | |
| Plaintiff, |) | THIRD SUPERSEDING INDICTMENT |
| |) | |
| vs. |) | [26 U.S.C. § 7206(1); |
| |) | 21 U.S.C. §§ 846, 843(b), and |
| FALANIKO UTI, |) | 841(a)(1), 18 U.S.C. § 2] |
| aka "Niko," | (01),) | |
| JOSEPH PAJARDO, | (04),) | |
| VANESSA BARUT, | (07),) | |
| PATRICH GILES, |) | |
| aka "P-Dog," | (08),) | |
| |) | |
| Defendants. |) | |
| |) | |

THIRD SUPERSEDING INDICTMENT

COUNT 1

The Grand Jury charges:

From a date unknown, but from at least July 1, 2000, to on or about April 23, 2001, in the District of Hawaii and elsewhere, the defendants FALANIKO UTI, aka "Niko," JOSEPH PAJARDO, VANESSA BARUT, PATRICH GILES, aka "P-Dog," and Joe

Sappa, Alfredo Sepulveda, Fernando Gutierrez and Osovale Atapuai, aka "Jojo," not defendants herein; did conspire together with each other and with other persons unknown to the Grand Jury, to knowingly and intentionally distribute and possess with intent to distribute a quantity of methamphetamine, its salts, isomers and salts of its isomers, in excess of 50 grams, a Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

OVERT ACTS

In furtherance of the conspiracy and to effect the objectives thereof, the co-conspirators performed the following acts, among others, in the District of Hawaii and elsewhere:

1. During July 2000, defendant FALANIKO UTI, aka "Niko" discussed the distribution of a quantity of crystal methamphetamine-"ice," with Osovale Atapuai, aka "JoJo."
2. On or about October 18, 2000, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with Osovale Atapuai, aka "JoJo."
3. On or about October 25, 2000, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with Osovale Atapuai, aka "JoJo."
4. On or about November 14, 2000, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with Osovale Atapuai, aka "JoJo."

5. On or about January 24, 2001, defendant FALANIKO UTI, aka "Niko" met with Osovale Atapuai, aka "JoJo."

6. On or about February 1, 2001, defendant FALANIKO UTI, aka "Niko" met with defendant JOSEPH PAJARDO.

7. On or about February 5, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with Osovale Atapuai, aka "JoJo."

8. On or about February 5, 2001, defendant FALANIKO UTI, aka "Niko" met with Alfredo Sepulveda in Honolulu, Hawaii.

9. On or about February 13, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with Osovale Atapuai, aka "JoJo."

10. On or about April 17, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with another individual concerning the distribution of a quantity of crystal methamphetamine.

11. On or about April 17, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with defendant JOSEPH PAJARDO.

12. On or about April 18, 2001, defendant PATRICH GILES, aka "P-Dog" spoke on the telephone with Fernando Gutierrez concerning the transportation of a quantity of crystal methamphetamine from Los Angeles, California, to Honolulu, Hawaii.

13. On or about April 19, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with defendant JOSEPH PAJARDO.

14. On or about April 19, 2001, defendant PATRICH GILES, aka "P-Dog" transferred a quantity of crystal methamphetamine from Los Angeles, California, to Honolulu, Hawaii.

15. On or about April 19, 2001, Alfredo Sepulveda and Fernando Gutierrez traveled from Los Angeles, California, to Honolulu, Hawaii.

16. On or about April 20, 2001, defendant FALANIKO UTI, aka "Niko" spoke on the telephone with another individual concerning the distribution of a quantity of crystal methamphetamine.

17. On or about April 20, 2001, defendant PATRICH GILES, aka "P-Dog" spoke on the telephone with Fernando Gutierrez concerning the distribution of a quantity of crystal methamphetamine.

18. On or about April 20, 2001, defendant FALANIKO UTI, aka "Niko" traveled to the Rockza nightclub in the Waikiki section of Honolulu, Hawaii.

19. On or about April 20, 2001, defendant PATRICH GILES, aka "P-Dog" carried approximately seven and one-half

pounds of crystal methamphetamine to the Rockza nightclub in the Waikiki section of Honolulu, Hawaii.

20. On or about April 20, 2001, defendants JOSEPH PAJARDO and VANESSA BARUT transported a quantity of methamphetamine from the Waikiki section of Honolulu to BARUT's residence in Waipahu.

21. On or about April 23, 2001, defendant JOSEPH PAJARDO stored approximately four pounds of crystal methamphetamine in his automobile.

22. On or about April 23, 2001, Joe Sappa stored approximately one pound of crystal methamphetamine in his residence.

23. On or about April 23, 2001, defendant VANESSA BARUT stored approximately two pounds of crystal methamphetamine in the residence she shared with JOSEPH PAJARDO.

All in violation of Title 21, United States Code, Section 846.

COUNT 2

The Grand Jury further charges:

On or about April 17, 2001, in the District of Hawaii, defendant FALANIKO UTI, aka "Niko" used and caused to be used a communications facility, that is, a telephone, in causing or facilitating the commission of a conspiracy to distribute a quantity of methamphetamine, its salts, isomers and salts of its

isomers, in excess of 50 grams, a Schedule II controlled substance, a felony under 21 U.S.C. § 846.

All in violation of Title 21, United States Code, Section 843(b).

COUNT 3

The Grand Jury further charges:

On or about April 19, 2001, in the District of Hawaii, defendants FALANIKO UTI, aka "Niko" and JOSEPH PAJARDO used and caused to be used a communications facility, that is, a telephone, in causing or facilitating the commission of a conspiracy to distribute a quantity of methamphetamine, its salts, isomers and salts of its isomers, in excess of 50 grams, a Schedule II controlled substance, a felony under 21 U.S.C. § 846.

All in violation of Title 21, United States Code, Section 843(b).

COUNT 4

The Grand Jury further charges:

On or about April 20, 2001, in the District of Hawaii, defendant FALANIKO UTI, aka "Niko" used and caused to be used a communications facility, that is, a telephone, in causing or facilitating the commission of a conspiracy to distribute a quantity of methamphetamine, its salts, isomers and salts of its isomers, in excess of 50 grams, a Schedule II controlled substance, a felony under 21 U.S.C. § 846.

All in violation of Title 21, United States Code,
Section 843(b).

COUNT 5

The Grand Jury further charges:

On or about April 20, 2001, in the District of Hawaii,
defendant PATRICH GILES, aka "P-Dog" used and caused to be used a
communications facility, that is, a telephone, in causing or
facilitating the commission of a conspiracy to distribute a
quantity of methamphetamine, its salts, isomers and salts of its
isomers, in excess of 50 grams, a Schedule II controlled
substance, a felony under 21 U.S.C. § 846.

All in violation of Title 21, United States Code,
Section 843(b).

COUNT 6

The Grand Jury further charges:

On or about April 20, 2001, in the District of Hawaii
defendant PATRICH GILES, aka "P-Dog" did knowingly and
intentionally possess with intent to distribute a quantity of
methamphetamine, its salts, isomers and salts of its isomers in
excess of 50 grams, to approximately seven and one-half pounds of
methamphetamine, its salts, isomers and salts of its isomers, a
Schedule II controlled substance.

All in violation of Title 21 United States Code Section
841(a) (1).

COUNT 7

The Grand jury further charges:

On or about April 23, 2001, in the District of Hawaii, defendant JOSEPH PAJARDO did knowingly and intentionally possess with intent to distribute a quantity of methamphetamine, its salts, isomers and salts of its isomers, in excess of 50 grams, to wit, approximately four pounds of crystal methamphetamine-"ice," a Schedule II controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

COUNT 8

The Grand Jury further charges:

On or about April 23, 2001, defendants JOSEPH PAJARDO and VANESSA BARUT did knowingly and intentionally aid and abet each other in possessing with intent to distribute a quantity of methamphetamine, its salts, isomers and salts of its isomers, in excess of 50 grams, to wit, approximately two pounds of methamphetamine, its salts, isomers and salts of its isomers, a Schedule II controlled substances.

All in violation of Title 21, United States Code, Section 841(a)(1) and Title 18, United States Code, Section 2.

COUNT 9

The Grand Jury further charges:

On or about April 7, 2001, in the District of Hawaii, FALANI KO UTI, a resident of Kapolei, Hawaii, did willfully make and subscribe a 2000 United States Individual Income Tax Return Form 1040 which was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which said 2000 United States Individual Income Tax Return Form 1040, he did not believe to be true and correct as to every material matter in that the said 2000 United States Individual Income Tax Return Form 1040 stated that FALANI KO UTI had taxable income of \$19,301, whereas, as he then and there well knew and believed that he had taxable income substantially greater than that reported.

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In violation of Title 26, United States Code, Section
7206(1).


DATED: November 20, 2002, at Honolulu, Hawaii.

A TRUE BILL

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FOREPERSON, GRAND JURY

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii



ELLIOT ENOKI
First Assistant U.S. Attorney



THOMAS MUEHLECK
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United States v. Falaniko Uti, aka "Niko," et al.
CR. NO. 01-00160 SOM
Third Superseding Indictment